

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Containment Solutions, Inc.

(b) County of Residence of First Listed Plaintiff Montgomery County, Texas  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Jay M. Vogelson  
Stutzman, Bromberg, Esserman & Plifka, P.C.  
2323 Bryan Street, Suite 2200  
Dallas, Texas 75201  
(214) 969-4900 (telephone)

**DEFENDANTS**

Hall Patent Group, LLC, William A. Hall and William Y. Hall

County of Residence of First Listed Defendant Ellis County, Texas  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.  
Do not cite jurisdictional statutes unless diversity.)

Declaratory judgment action concerning patent

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

6-13-03

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

ORIGINAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

COURT  
DISTRICT OF TEXAS  
FILED  
JUN 13 2003  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy  
Civil No. \_\_\_\_\_

CONTAINMENT SOLUTIONS, INC.,

Plaintiff,

v.

HALL PATENT GROUP, LLC,  
WILLIAM A. HALL and  
WILLIAM Y. HALL

Defendants.

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3 03 CV 1325 L

**COMPLAINT**

Plaintiff, Containment Solutions, Inc. ("CSI") alleges as follows:

1. This is an action for a declaratory judgment that the claims of U.S. Patent No. 6,422,413 ("The '413 Patent") are invalid, unenforceable and/or not infringed by any product of CSI.
2. This action arises under the laws of the United States, Title 15, United States Code and is based on an actual controversy between the parties with respect to alleged patent infringement by plaintiff CSI of the claims of the '413 Patent, upon information and belief, assigned to the defendant Hall Patent Group, LLC ("HPG").
3. This court has jurisdiction under 28 USC §1338(a), 2201 and 2202. Venue is proper in this district under 28 USC §1391(b) and (c).
4. Plaintiff CSI is a Delaware corporation located in the State of Texas, 5150 Jefferson Chemical Road, Conroe, Texas 77301-6834.

5. Upon information and belief, Defendant HPG is a limited liability corporation organized and existing under the laws of the State of Texas, having a place of business at 2705 Brombeck, Ennis, Ellis County, Texas.

6 Upon information and belief, defendants William A. Hall, residing at 3128 Pacific Coast Highway North, Torrence, California, and William Y. Hall, residing at 5029 Silver Arrow Road, Ronchopalosver, California, are individual named inventors on the '413 Patent.

7. All defendants are hereinafter referred to, collectively, as "HPG".

8. On January 29, 2003, William A. Hall and William Y. Hall, by their counsel, sent a letter to CSI, alleging infringement by CSI of the '413 Patent.

9. On February 12, 2003, CSI, by its counsel, sent a letter in response complaining of a failure by HPG to specify the products involved and the nature of the alleged infringement.

10. On March 28, 2003, the same counsel representing the Hall Patent Group, LLC, sent a letter to CSI alleging that all above ground gasoline storage tanks made by CSI which met a UL 2085 listing standard infringed the '413 Patent.

11. On April 1, 2003, CSI, by its counsel, sent a responsive letter, again complaining of a failure by HPG to specify the actual product alleged to infringe the '413 Patent, or the way in which the product allegedly met any specific claim limitations so as to infringe the '413 Patent.

12. On June 10, 2003, Mr. William A. Hall advised that patent infringement litigation against the alleged infringement of the '413 Patent was imminent.

13. Upon information and belief, CSI has been threatened by defendants infringement charge and fears that it will be forced to defend against baseless charges of infringement of the '413 Patent, and that CSI will be irreparably harmed should that occur.

**FIRST CLAIM**

14. This is an action against HPG for a declaratory judgment that United States Patent No. 6,422,413 (hereinafter the '413 patent) has not been infringed by CSI, and is invalid and unenforceable.

15. This Court has jurisdiction of the subject matter pursuant to Title 28, United States Code, Sections 1338(a), 2201, and 2202. The venue is proper under Title 28, United States Code, Section 1391(b) and (c).

16. Plaintiff repeats and realleges the allegations of paragraphs 1 through 15, herein.

17. On information and belief, in view of the proceedings in the United States Patent and Trademark Office in the application for the '413 Patent, the claims of the patent are not lawfully entitled to any construction or interpretation which would be infringed by Plaintiff nor by any activity which Plaintiff has induced others to perform.

18. On information and belief, each of the claims of the '413 patent is invalid and void for failure to comply with the requirements of the patent laws of the United States, Title 35, United States Code, Sections 100 et seq., for at least one of the following reasons:

(a) The claimed subject matter lacks patentable novelty.

(b) Each of the claims fails to meet one or more of the conditions for patentability set forth in Title 35, United States Code, Sections 102 and 103, particularly in that:

- i. The invention claimed in said '413 Patent was known or used by others in this country, or patented or described in a printed publication in this or a foreign country; or
- ii. The invention claimed in said '413 Patent was patented or described

in a printed publication in this or a foreign country or in use or on sale in this country, more than one year prior to the date of the application for said '413 Patent; or

- iii. The applicant or his assignee abandoned the invention; or
- iv. The invention claimed in said '413 Patent was described in a patent granted on an application for patent by another filed in the United States before the purported invention thereof by the applicant for said '413 patent, or on an international application by another who fulfilled the requirements of paragraphs (1), (2), and (4) of Section 371(c) of Title 35, United States Code, before the purported invention thereof by the applicant for the '413 Patent; or
- v. The named inventor in the '413 Patent did not himself invent the subject matter claimed in the '413 Patent; or
- vi. Before the purported invention by the inventor named in the '413 Patent, the claimed invention was made in this country by another who had not abandoned, suppressed or concealed it; or
- vii. The differences between the claimed subject matter in the '413 Patent and the prior art are such that said subject matter as a whole would have been obvious at the time the purported invention was made by the inventor named in the '413 Patent to a person having ordinary skill in the art to which said subject matter pertains.

(c) The disclosure in the '413 Patent is insufficient to comply with the requirements of Title 35, United States Code, Section 112.

(d) The '413 Patent does not particularly point out and distinctly claim that which the applicant asserted to be his alleged invention.

(e) The claims are not supported by a proper oath of the applicants pursuant to Title 35, United States Code, Section 115.

19. Upon information and belief, the '413 Patent is unenforceable for unclean hands.

20. Upon information and belief, the '413 Patent is unenforceable for patent misuse.

21. Upon information and belief, the '413 Patent is barred from enforcement by laches.

22. Upon information and belief, the '413 Patent is unenforceable for inequitable conduct committed by the applicants and/or their attorneys during the prosecution of the applications leading to the issuance of the '413 Patent.

**WHEREFORE** Plaintiff prays respectfully that, upon final hearing, the following relief be granted:

1) Judgment that United States Letters Patent No. 6,422,413 and all of the claims thereof are invalid, void and unenforceable;

2) That the Court adjudge and decree that Plaintiff is not infringing any of the claims of United States Letters Patent No. 6,422,413;

3) That the Court enjoin Defendants Hall Patent Group LLC, William A. Hall and William Y. Hall from asserting any of the claims of United States Letters Patent No. 6,422,413 against Plaintiff or any customers of Plaintiff;

4) That the Court award Plaintiff its costs, including reasonable attorney's fees;

5) That the Court make such further award, or grant such other relief to Plaintiff as the Court may deem just and appropriate.

Respectfully submitted,



Jay M. Vogel

State Bar No. 20603000

William F. LePage

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